IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 6 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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Versus

COMMISSIONER OF INCOME-TAX

Appearance:

1. INCOME TAX REFERENCE No. 6 of 1992
NOTICE SERVED for Petitioner No. 1
MR MANISH R BHATT for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 19/02/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

In this reference at the instance of the assessee under Section 256(1) of the Income-tax Act, 1961, the following question is referred for our opinion for assessment year 1981-82 :-

"Whether on the facts and circumstances of the case, the appellant Company, as Hotel, is an "Industrial Undertaking" eligible for the grant of Investment Allowance ?"

2. When this reference is called out for hearing, no one appears for the applicant-assessee. Mr Manish R Bhatt, learned standing counsel appears for the revenue.

3. Mr Bhatt states that the controversy raised in this reference is covered by the decision of the Apex Court in CIT vs Anand Theatres, (2000) 244 ITR 192.

4. We find that apart from the assessee not having caused any appearance on its behalf though the reference is made at its instance, the paper book is not filed. Hence, we decline to answer the question.

The reference accordingly stands disposed of.

(M.S. Shah, J.)

(M.C. Patel, J.)

sundar/-